Supreme Court, U. S.
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IN THE

Supreme Court of the United States

OCTOBER TERM, 1974

No. 74-1032

SCOTT HUDGENS, AN INDIVIDUAL,
Petitioner,

vs.

LOCAL 315, RETAIL AND WHOLESALE DEPARTMENT STORE UNION, AFL-CIO,
Respondent.

ON PETITION FOR A WRIT OF CERTIORARI TO THE COURT OF APPEALS OF GEORGIA

SUPPLEMENT TO PETITION FOR WRIT OF CERTIORARI

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The instant petition, which was filed on Februrary 18, 1975, sought to resolve a significant, undecided question of federal law: whether state courts have jurisdiction to declare a trespass by union pickets on private property to be violative of state law.[1] The Chamber of Commerce of the United States thereafter filed a brief in support of the petition and Respondent Local 315, RWDSU, filed a memorandum which also urged that the petition be granted. The purpose of this supplement is to bring to the Court's attention developments which have occurred since the filing of those documents which bear on the present case.

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1. A companion case, No. 74-773, involving petitioner Hudgens and the National Labor Relations Board has been argued and is awaiting decision.

1. The question raised by the instant petition is presently being litigated before the highest courts of two states, both of which have recently agreed to review the decisions of intermediate courts of appeal. *Sears, Roebuck & Company* v. *San Diego County Dist. Council of Carpenters*, 91 LRRM 2039 (Cal. Ct. App., Oct. 31, 1975); *pet. rev. grant.*, No. ..... (Cal. S. Ct.); *May Department Stores Company* v. *Teamsters Union Local 743*, 90 LRRM 2762 (Ill. Ct. App., Oct. 2, 1975), *pet. rev. grant.*, No. ..... (Ill. S. Ct.). Significantly, the lower courts in these cases reached conflicting results; the California court found that, based on *Central Hardware Company* v. *N. L. R. B.*, 407 U. S. 539 (1973), and other opinions of this Court, state courts were not preempted from prohibiting trespass by union pickets[2] while, conversely, the Illinois court concluded that, under its analysis of *Central Hardware*, the NLRB was vested with exclusive jurisdiction.[3] The pendency of this litigation further underscores the recurrent nature of the question presented, the desirability of a resolution by this Court of the conflict among the states (see pet. for cert., pp. 6-8) and the need for the Court to explicate its own controlling decisions (see pet. for cert., pp. 8-10).

2. On January 26, 1976, this Court granted certiorari in *Hill* v. *Carpenters Local 25*, No. 75-1804, which also presents a *San Diego Building Trades Council* v. *Garmon*, 395 U. S.

2. "The *Central Hardware* decision aids us in resolving the question whether traditional protective actions by states on behalf of real property owner's interest are infringements on the primary competence of the NLRB in matters actually or arguably protected or prohibited under the Act. A principle reasonably to be taken from *Central Hardware* is that so long as the presentation of the traditional concepts of rights inherent in property ownership do not interfere with or alter the effective communications by the union of its point of view, the property owner's rights in his property should be preserved." 91 LRRM at 2043.

3. "A candid assessment of *Central Hardware* . . . reinforces the conclusion that the dispute between Venture and the union organizers was arguably subject to sections 7 and 8(a)(1) of the NLRA." 90 LRRM at 2766.

236 (1959), preemption issue: the related question of whether a union member's damage action in state court is preempted by federal labor law. 44 U. S. L. W. 3424. Concurrent review of *Hill* and the instant case will provide the Court with the opportunity to explore all dimensions of *Garmon* and authoritatively delineate those circumstances in which state courts retain jurisdiction over labor-management disputes.

Respectfully submitted,

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